

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EDMUND LOWELL FIELDS, #487029,

Petitioner,

v.

CASE NO. 2:12-CV-12658
HONORABLE DENISE PAGE HOOD

DAVID BERGH,

Respondent.

ORDER DENYING MOTION FOR EVIDENTIARY HEARING

Michigan prisoner Edmund Lowell Fields (“Petitioner”) has filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging the validity of his state criminal proceedings and current confinement. This matter is before the Court on Petitioner’s motion for an evidentiary hearing. Respondent has not yet filed an answer to the petition or the state court record.

Rule 8 of the Rules Governing 2254 Cases in the United States District Courts states, in pertinent part:

If the petition is not dismissed at a previous stage in the proceeding, the judge, after the answer and the transcript and record of state court proceedings are filed, shall, upon review of those proceedings and of the expanded record, if any, determine whether an evidentiary hearing is required.

Rule 8. Given that Respondent has not yet filed an answer to the petition or the state court record, Petitioner’s request for an evidentiary hearing is premature. Additionally, the Court notes that federal habeas review is generally limited to the record that was before the state court. *See Cullen v. Pinholster*, _ U.S. __, 131 S. Ct. 1388, 1398 (2011) (ruling that habeas review under 28 U.S.C. §2254(d) is “limited to the record that was before the state court that adjudicated the claim on the

merits”). Accordingly, the Court **DENIES** Petitioner’s motion for evidentiary hearing at this time. The Court will bear in mind Petitioner’s request should an evidentiary hearing be necessary for the proper resolution of this matter. He need not file another motion on this issue.

IT IS SO ORDERED.

S/Denise Page Hood
Denise Page Hood
United States District Judge

Dated: March 14, 2013

I hereby certify that a copy of the foregoing document was served upon counsel of record on March 14, 2013, by electronic and/or ordinary mail.

S/LaShawn R. Saulsberry
Case Manager